IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4712 OF 2007

Sanket Shashikant Bhandalkar .. Petitioner.

V/s.

1. Social Welfare Officer, Social Welfare Dept.,Thane & Ors. .. Respondents.

Mr.U.B.Nighot for the Petitioner.

Mr.A.A.Kumbhakoni, Associate Advocate General with Mr.V.A.Sonpal, AGP for the Respondent Nos.1 & 2.

CORAM : F.I. REBELLO AND R.M. SAVANT, JJ.

DATED : 28th JUNE, 2007.

P.C. :-

. Rule. Heard forthwith.

2. The petitioner has approached this court and sought therein the relief to direct the Respondent No.3 to accept the application form of the petitioner for admission to first year of four year Decree Course in Engineering/Technology for the academic year 2007, in the absence of the caste validity certificate and non-creamy layer certificate. In terms of the direction issued by the Government all students who are desirous

of to be admitted against a reserved category seat had to have a caste validity certificate or at least had to adduce proof that such candidate had applied for validation of the caste certificate before the cut of date of 30th May, 2007.

3. A few background facts may be set out : The State Government has issued a Brochure and set out Rules for admission against the reserved category seats. A similar Rule was also in existence last year. This court at that time noticed that many of the candidates were applying for the first time to reserved seats in professional colleges and on account of ignorance and illiteracy of their parents, they may have not taken steps to apply for caste validity certificate well in advance. This court, therefore, held that the rule would be directory and not mandatory. However, while disposing of the petition, we had directed the Chief Secretary to take steps to inform the students in the coming academic year that they should obtain caste validity certificate in advance. This the State Government has done. The object of obtaining caste validity certificate in advance, as explained by the State Government is that many of students who may not be eligible to take advantage of reservations at the last moment obtain a caste certificate based on bogus and

fabricated documents and manage to get a seat reserved for backward category. This defeats the right of genuine students belonged to be backward category.

4. Pursuant to our directives, the State Government has taken steps which are set out in the affidavit of Shri Shripati Rau Mohite, Assistant Director of Technical Education in the office of the Respondent State and Higher Technical Education. In the affidavit, it is set out that the State Government on and from 19th of October, 2006 has given repeated public advertisements in all the local newspapers, making the entire students community aware of the fact that the students who are claiming admissions against reserved seats on the basis of caste, must possess certain documents in support of their caste claims. This advertisements have been republished on 16th November, 2006, 2nd February, 2007 as also on 26th March, 2007. It has also been included in the Brochure. The various newspapers in which the advertisement has been published has been annexed as exhibits to the petition. That would indicate that the State Government has not only advertised in the State of Maharashtra itself but also in the newspapers outside the State of Maharashtra. In other words, the State Government has taken all possible steps to see, that wide publication has-been given so

that the students who are desirous of being admitted against the reserved seats, should procure the documents in advance. In our opinion, considering the steps taken it is not possible for us to hold that the Rule can now be read as directory. The State Government has made the rule with an object of protecting the rights of genuine backward candidates and having taken steps to advertisement, in our opinion, the intent of the State Government will have to be given effect to. We, therefore, hold that the Rule as published in the Brochure, has now to be read as mandatory. In other words, the candidates must have either caste validity certificate or proof of having applied for caste validity certificate on or before 30th of May, 2007.

5. In the instant case, the petitioner applied on 13th of June, 2007 i.e. much after the last date set out by the State Government. In the affidavit filed by the State Government, considering the impugned order passed by this court the State Government has pointed out that the petitioner will be considered against the open category seat.

6. Considering the above, we find no merit in this petition. Rule discharged accordingly.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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